

**TITLE 6. ECONOMIC SECURITY****CHAPTER 14. DEPARTMENT OF ECONOMIC SECURITY  
FOOD STAMPS PROGRAM****ARTICLE 1. FOOD STAMPS -- GENERAL INFORMATION  
AND PROVISIONS**

*Article 1, consisting of Sections R6-14-101 through R6-14-111 recodified from A.A.C. R6-3-1901 through R6-3-1911 effective February 13, 1996 (Supp. 96-1).*

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**ARTICLE 1. FOOD STAMPS -- GENERAL INFORMATION AND PROVISIONS****R6-14-101. Purpose**

The Food Stamp Program is designed to promote the general welfare and to safeguard the health and well-being of the population by raising the levels of nutrition among low-income households.

**Historical Note**

Section R6-14-101 recodified from A.A.C. R6-3-1901 effective February 13, 1996 (Supp. 96-1).

**R6-14-102. Nondiscrimination**

The Department of Economic Security will not discriminate against any applicant or participant in the program because of age, race, sex, color, religious creed, national origin, handicap, or political beliefs. The certification of eligible households, issuance of coupons, the conduct of hearings, or any other program service will be administered without discrimination, as prescribed by 7 CFR 272.7.

**Historical Note**

Section R6-14-102 recodified from A.A.C. R6-3-1902 effective February 13, 1996 (Supp. 96-1).

**R6-14-103. Agency Responsibility**

The Department of Economic Security is responsible for the administration of the Food Stamp Program in the state of Arizona in consonance with 7 CFR 271.4 and A.R.S. § 41-1954(1)(c).

**Historical Note**

Section R6-14-103 recodified from A.A.C. R6-3-1903 effective February 13, 1996 (Supp. 96-1).

**R6-14-104. Information Available to the Public**

Federal regulations, state Plans of Operation, state manuals, and federal procedures which affect the public will be maintained in the state and local offices for examination by members of the public on regular workdays during regular office hours.

**Historical Note**

Section R6-14-104 recodified from A.A.C. R6-3-1904 effective February 13, 1996 (Supp. 96-1).

**R6-14-105. Disclosure of Information**

Use or disclosure of information obtained from applicant households will be restricted to persons directly connected with the administration or enforcement of the Food Stamp Act or regulations, or with other federal or federally aided means tested assistance programs, or with general assistance programs. A written consent statement from the applicant/participant is required for disclosure of information to requestors other than specified above.

**Historical Note**

Section R6-14-105 recodified from A.A.C. R6-3-1905 effective February 13, 1996 (Supp. 96-1).

**R6-14-106. Food Coupons**

Pursuant to Section 15(d) of the Food Stamp Act, coupons are an obligation of the United States. The provisions of 18 U.S.C., "Crimes and Criminal Procedure", and A.R.S. Title 13, Chapter 37, relative to counterfeiting, misuse, and alteration of obligations of the United States, are applicable to coupons. Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of coupons or ATP's may result in prosecution.

**Historical Note**

Section R6-14-106 recodified from A.A.C. R6-3-1906 effective February 13, 1996 (Supp. 96-1).

**R6-14-107. Coupon Benefit Level**

The coupon benefit level will be equal to the Thrifty Food Plan pursuant to 7 CFR 273.10(e)(2)(ii) as amended for the appropriate

household size reduced by 30% of the household's net income. The Thrifty Food Plan will be adjusted semiannually to reflect the cost of food by the U.S. Department of Agriculture.

**Historical Note**

Section R6-14-107 recodified from A.A.C. R6-3-1907 effective February 13, 1996 (Supp. 96-1).

**R6-14-108. Coupons as Income**

The food coupon allotment provided any eligible household will not be considered income or resources to that household by any state or federal governmental agency for any purpose, as cited in 7 CFR 272.1(a) and (b).

**Historical Note**

Section R6-14-108 recodified from A.A.C. R6-3-1908 effective February 13, 1996 (Supp. 96-1).

**R6-14-109. Issuance of Coupons**

Food coupons will be issued only to households which have been duly certified as eligible to participate in the Food Stamp Program according to R6-14-201 through R6-14-212.

**Historical Note**

Section R6-14-109 recodified from A.A.C. R6-3-1909 effective February 13, 1996 (Supp. 96-1).

**R6-14-110. Return of Coupons**

In the event of voluntary termination of participation by a household or the death of the head of the household, properly issued coupons may, but need not, be returned to the Department.

**Historical Note**

Section R6-14-110 recodified from A.A.C. R6-3-1910 effective February 13, 1996 (Supp. 96-1).

**R6-14-111. Definitions**

For purposes of this Section, the following terms are defined as follows:

1. "Adjusted net income". Income remaining after all deductions from gross income.
2. "Adverse action". The reduction or termination of program benefits within the certification period.
3. "Alien lawfully admitted to the United States". An alien legally admitted to the United States by the U.S. Immigration and Naturalization Service. An alien legally admitted to the United States may or may not be legally admitted for permanent residence or residing under color of law.
4. "Alien lawfully admitted to the United States for permanent residence". An alien permitted to reside continuously in the United States, as specified by appropriate documentation which the alien must have in the alien's possession at all times.
5. "Allotment". The total value of coupons a household is authorized to receive during each month or any specified time period.
6. "Annualization of income". The division of yearly gross income by 12 to arrive at the monthly average.
7. "Anticipated income". Income which is not yet available to meet needs but which is expected to become available.
8. "Appeal". An individual's written statement requesting a hearing to contest action to be taken or previously taken by the Department.
9. "Applicant". A person who applies for program benefits for the that person and/or others.
10. "Assets". All items owned by an individual which have a monetary value.
11. "A.T.P.". Authorization to Participate in the Food Stamp Program.

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12. "Authorized representative". A person authorized by an individual to act in the individual's behalf.
13. "Basis of issuance or benefit level". The amount of coupons for which the household is eligible, based on household size and adjusted net income.
14. "Boarding house". A commercial enterprise which offers meals and lodging for compensation.
15. "Certification". Approval of the household's application and determination of basis of issuance and period of eligibility.
16. "Citizen". An individual born or naturalized in the United States, which is defined, for program purposes, as the 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and Swain's Island.
17. "Collateral contact". An individual, agency, or organization contacted to confirm statements presented by the applicant and/or participant.
18. "Color of Law". A legal status which a lawfully admitted alien may claim if the alien can satisfactorily prove that the alien has continuously resided in the United States since June 30, 1948.
19. "Coupon". Any coupon, stamp, or certification provided pursuant to the Food Stamp Act of 1977 for the purchase of eligible food.
20. "Denial". The formal disapproval of an application for program benefits.
21. "Department". The Department of Economic Security.
22. "Drug and/or alcoholic treatment and rehabilitation center". A center providing treatment and rehabilitation programs by a private nonprofit organization.
23. "Earned income". Compensation received as wages, salaries, commissions, or profit, through employment or self-employment.
24. "Eligible food". Any food for human consumption; seeds and plants to grow foods for the personal consumption of the eligible household; delivered meals and meals served at approved communal dining facilities and rehabilitation treatment centers.
25. "Eligibility worker". Department employee responsible for the determination of eligibility of the applicant households.
26. "Equity value". The fair market value less encumbrances.
27. "F.N.S.". Food and Nutrition Service, a division of the United States Department of Agriculture.
28. "Fraud". An action, punishable by law, in which a person has knowingly, willfully, and with deceitful intent obtained benefits for which the person was not eligible.
29. "Hearing". The process of reviewing a client's situation for the purpose of deciding whether or not action taken or intended action by the Department is correct.
30. "Home visit". A visit by an Eligibility Worker to the client's place of residence to verify eligibility factors for program benefits.
31. "Home and land contiguous thereto". The residential real property owned by a client, both land improvements on which client is living, as well as any land immediately touching which is also owned by the client.
32. "Identification card". A card which identifies the bearer as eligible to receive and use food coupons.
33. "In kind". Any gain or benefit which is not in the form of money payable directly to the household, such as meals, clothing, public housing, produce from a garden, and vendor payments.
34. "Institution of higher education". Any institution providing post-high-school education, including, but not limited to, colleges, universities, and vocational or technical schools at the post-high-school level.
35. "Liquid resources". Financial instruments which can be converted to cash quickly (such as stocks, bonds, savings certificates, notes, sales contracts, etc.).
36. "Minor child". A person under age 18 and under parental control.
37. "Non-eligible food". Hot foods and hot food products prepared for immediate over-the-counter service, alcoholic beverages, tobacco, pet foods and supplies, soap, and paper products.
38. "Overissuance". The amount of a coupon allotment received by a household which is in excess of what it was eligible to receive.
39. "Parental control". A child under the age of 18 years and under the control of the parent or any adult other than natural parents (in loco parentis).
40. "Project area". The county or geographic entity designated as the administrative unit for program operations.
41. "Recertification". A re-evaluation of all eligibility factors.
42. "Restoration of lost benefits". Issuance of coupons to an eligible household that did not receive benefits or the correct amount of benefits due to an error caused by the Department.
43. "Retroactive benefits". An issuance of coupons to an eligible household who experienced a delay in the processing of the application.
44. "Roomer". Individual to whom lodging is furnished for compensation.
45. "Spouse". One of 2 individuals who are married to each other under applicable state law or who are living together and holding themselves out to the community as husband and wife.
46. "Student". An individual 18 years of age or older and attending, at least half time, a post-high-school institution of higher education (as defined for program purposes).
47. "United States citizen". A person who was born in the United States or naturalized in the United States and has maintained United States citizenship status.
48. "U.S.D.A.". United States Department of Agriculture.
49. "Vendor payments". Money payments made on behalf of the household to another by a 3rd party.

**Historical Note**

Section R6-14-111 recodified from A.A.C. R6-3-1911 effective February 13, 1996 (Supp. 96-1).

**ARTICLE 2. FOOD STAMPS -- ELIGIBILITY STANDARDS****R6-14-201. Residency**

A household must live in the county in which it files an application for participation, as provided in 7 CFR 273.3.

**Historical Note**

R6-14-201 recodified from A.A.C. R6-3-2001 effective February 13, 1996 (Supp. 96-1).

**R6-14-202. Household Composition**

- A.** A household may be defined as an individual living alone, or a group of individuals living together but not residents of an institution, except:
1. Residents of a federally subsidized institution for the elderly, built under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act.
  2. Drug addicts and alcoholics who reside at a drug or alcoholic treatment and rehabilitation facility which is authorized to accept food coupons.

- B.** Separate household status will not be granted to a spouse of the individual or to children under 18 years of age who are under parental control of the household member, as defined in R6-14-111.

**Historical Note**

R6-14-202 recodified from A.A.C. R6-3-2002 effective February 13, 1996 (Supp. 96-1).

**R6-14-203. Household Composition -- Head of Household**

The head of the household is determined by the applicant or the designee of the applicant.

**Historical Note**

R6-14-203 recodified from A.A.C. R6-3-2003 effective February 13, 1996 (Supp. 96-1).

**R6-14-204. Household Composition -- Nonhousehold Members**

- A.** The following household residents will not be considered household members in determining the eligibility or allotment level of the household:
1. Ineligible aliens as defined in R6-14-208,
  2. Roomers,
  3. Boarders,
  4. Live-in attendants,
  5. Student tax dependents,
  6. Individuals disqualified for fraud or students disqualified for failure to fulfill the work registration requirements,
  7. Individuals who share living quarters with the eligible household, but do not purchase food or prepare meals with the household.
- B.** Nonhousehold members who are otherwise eligible may participate as separate households.

**Historical Note**

R6-14-204 recodified from A.A.C. R6-3-2004 effective February 13, 1996 (Supp. 96-1).

**R6-14-205. Household Composition -- Residents of Institutions**

Refer to R6-14-111, Definitions.

**Historical Note**

R6-14-205 recodified from A.A.C. R6-3-2005 effective February 13, 1996 (Supp. 96-1).

**R6-14-206. Household Composition -- Student Households**

A student who is a member of a household and is otherwise eligible to participate in the program will not be eligible to participate as a member of that or any other household if the student:

1. Has reached age 18, and
2. Is enrolled at least half time in an institution of higher education, and
3. Is properly claimed or could be properly claimed for the current tax year as a dependent child for federal income tax purposes by a taxpayer who is not a member of an eligible household.

**Historical Note**

R6-14-206 recodified from A.A.C. R6-3-2006 effective February 13, 1996 (Supp. 96-1).

**R6-14-207. Household Composition -- Authorized Representative**

The head of the household, or any other responsible member of the household, may at any time designate any adult to act as an authorized representative on behalf of the household.

**Historical Note**

R6-14-207 recodified from A.A.C. R6-3-2007 effective February 13, 1996 (Supp. 96-1).

**R6-14-208. Citizenship and Alien Status**

- A.** Program participation will be available only to a person who is a resident of the United States and 1 of the following:
1. A United States citizen;
  2. An alien lawfully admitted for permanent residence as an immigrant pursuant to the Immigration and Nationality Act;
  3. An alien who entered the United States under color of law prior to June 30, 1948, and has continuously maintained residency in the United States;
  4. An alien who qualified for conditional entry because of persecution or fear or persecution because of race, religion, political opinion, or because of catastrophic natural calamity pursuant to the Immigration and Nationality Act;
  5. An alien lawfully present in the United States as a result of an exercise of discretion by the Attorney General pursuant to the Immigration and Nationality Act;
  6. An alien living within the United States to whom the Attorney General has withheld deportation pursuant to the Immigration and Nationality Act.
- B.** Alien status must be verified.

**Historical Note**

R6-14-208 recodified from A.A.C. R6-3-2008 effective February 13, 1996 (Supp. 96-1).

**R6-14-209. Work Registration Requirement**

Each household member who is between 18 and 60 years of age, and is not exempt, must register for employment with the Department Job Service, except as provided in R6-14-210.

1. Registration is completed at the time of application for the Food Stamp Program and must be updated every 6 months thereafter.
2. Households whose primary wage earner has voluntarily quit the person's most recent job without good cause will not be eligible for program participation.

**Historical Note**

R6-14-209 recodified from A.A.C. R6-3-2009 effective February 13, 1996 (Supp. 96-1).

**R6-14-210. Work Registration Requirement -- Exemptions**

The following persons are exempt from the work registration requirement:

1. Employed individuals who are:
  - a. Working a minimum of 30 hours per week, or
  - b. Receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours;
2. A household member currently participating in the Work Incentive Program (WIN) under Title IV of the Social Security Act;
3. A parent or other household member responsible for the care of a dependent child under 12 years of age or an incapacitated person;
4. A parent or caretaker of a child under 18 years of age when another able-bodied parent is registered for work or is exempt as a result of employment;
5. An individual receiving or who has applied for unemployment compensation;
6. A regular participant in a drug or alcoholic treatment and rehabilitation program;
7. Persons who are physically or mentally incapable of engaging in gainful employment;

8. An exempt student;
9. A self-employed household member who:
  - a. Devotes a minimum of 30 hours per week to the self-employment enterprise, or
  - b. Has weekly earnings equal to the federal minimum wage multiplied by 30 hours.

**Historical Note**

R6-14-210 recodified from A.A.C. R6-3-2010 effective February 13, 1996 (Supp. 96-1).

**R6-14-211. Work Registration Requirement -- Suitability of Work**

- A. Employment will be considered unsuitable when:
  1. The wage offered is less than the highest of:
    - a. The applicable federal minimum wage, or
    - b. The applicable state minimum wage, or
    - c. 80% of the federal minimum wage if neither the federal nor state minimum wage is applicable;
  2. The employment offered is on a piece-rate basis, and the average hourly yield which the employee can reasonably be expected to earn is less than the applicable hourly wage as specified in subsection (A)(1);
  3. The applicant is required, as a condition of employment, to join, resign from, or refrain from joining any legitimate labor organization;
  4. The work offered is at a site subject to strike or lockout, unless the strike has been enjoined under the Taft-Hartley Act, Section 208 of the Labor Management Relations Act (29 U.S.C. 160).
- B. Employment opportunities will be considered suitable unless the household member can demonstrate or it can otherwise be determined:
  1. The degree of risk to health and safety is unreasonable;
  2. The individual is physically or mentally incapable of performing the assigned tasks of employment as documented by medical evidence or reliable information obtained from other sources;
  3. The employment offered within the first 30 days of registration is not in the household member's field of experience;
  4. The distance of employment from the household member's place of residence is unreasonable, with respect to the expected wage and the time and cost of commuting.
    - a. Commuting time cannot exceed 2 hours per day, not including time to transport a child to and from a child care facility;
    - b. Employment is not considered suitable if the distance prohibits walking and neither public or private transportation is available;
  5. The working hours or type of employment will interfere with the individual's religious observances, convictions, or beliefs;
  6. For students, the employment offered is during scheduled class hours or is more than 20 hours per week.

**Historical Note**

R6-14-211 recodified from A.A.C. R6-3-2011 effective February 13, 1996 (Supp. 96-1).

**R6-14-212. Work Registration Requirement -- Unlawful Strike**

In any strike which has been enjoined under the Taft-Hartley Act, Section 208 of the Labor Management Relations Act (29 U.S.C. 178), or is subject to an injunction which has been issued under Section 10 of the Railway Labor Act (45 U.S.C. 160), all households containing 1 or more members involved in the strike and affected by the enjoinder will be denied benefits or will have ben-

efits terminated, unless the household can demonstrate that the members involved are not required to register for work.

**Historical Note**

R6-14-212 recodified from A.A.C. R6-3-2012 effective February 13, 1996 (Supp. 96-1).

**R6-14-213. Work Registration Requirement -- Failure to Comply**

A household member, other than a student, who has refused or failed without good cause to comply with the work registration requirements will cause the household to become ineligible for program benefits until the member complies with the requirements or becomes exempt from the work registration requirement, or 2 months from the date of noncompliance has passed.

**Historical Note**

R6-14-213 recodified from A.A.C. R6-3-2013 effective February 13, 1996 (Supp. 96-1).

**R6-14-214. Work Registration Requirement -- Student Requirement**

A student who is enrolled at least half time (in accordance with the institution's attendance policies) in a recognized school, training program, or institution of higher education is exempt from work registration requirements except:

1. Students must register for full employment during periods of school vacation or recess which exceed 30 days.
2. During the regular school term, students enrolled in an institution of higher education must register for 20 hours of work per week.

**Historical Note**

R6-14-214 recodified from A.A.C. R6-3-2014 effective February 13, 1996 (Supp. 96-1).

**R6-14-215. Work Registration Requirement -- Student Failure to Comply**

A student who refuses or fails to comply with the work registration requirement will be ineligible to participate as a member of any household. The disqualification applies to the individual student and not the entire household.

**Historical Note**

R6-14-215 recodified from A.A.C. R6-3-2015 effective February 13, 1996 (Supp. 96-1).

**R6-14-216. Work Registration Requirement -- End of Disqualification**

Following the end of the 2-month disqualification period, a household member or student may reapply.

**Historical Note**

R6-14-216 recodified from A.A.C. R6-3-2016 effective February 13, 1996 (Supp. 96-1).

**R6-14-217. Financial Resources**

The uniform national resource standards of eligibility apply to all households. Assets of the household will not exceed \$1,750 for the entire household, except for households of 2 or more which include at least 1 member over 60 years of age the assets will not exceed \$3,000.

**Historical Note**

R6-14-217 recodified from A.A.C. R6-3-2017 effective February 13, 1996 (Supp. 96-1).

**R6-14-218. Income Limitations and Deductions**

The income of all applicants will be considered according to R6-14-309.

**Historical Note**

R6-14-218 recodified from A.A.C. R6-3-2018 effective  
February 13, 1996 (Supp. 96-1).

**ARTICLE 21. FOOD STAMPS -- APPLICATION AND CERTIFICATION****R6-14-301. Initial Application**

Admission to the Food Stamp Program, eligibility for the program, and determination of benefits to be received are based on a signed, written application, filed with a certification office of the Department.

**Historical Note**

R6-14-301 recodified from A.A.C. R6-3-2101 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-302. Verification**

- A.** The following eligibility criteria must be verified:
1. Gross non-exempt income,
  2. Alien status.
- B.** The following eligibility criteria may be verified if inconsistent with other information:
1. Resource information;
  2. Non-financial information;
  3. Citizenship;
  4. Deductible expenses if the claimed expense would result in a deduction, and when:
    - a. The household wishes to claim utility expenses in excess of the standard utility expense,
    - b. Shelter costs exceed the standard,
    - c. Expenses claimed are inconsistent with other household circumstances.

**Historical Note**

R6-14-302 recodified from A.A.C. R6-3-2102 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-303. Documentation**

Case files requiring verification must be documented indicating verification methods.

**Historical Note**

R6-14-303 recodified from A.A.C. R6-3-2103 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-304. Delay in Application**

- A.** Delays caused by the household. When no further action can be taken on an application because the household has failed to complete the application process and the Department has met its responsibility to assist the household, a notice of denial will be issued on the 30th day following the date of application.
- B.** Delays caused by the Department. When the Department fails to complete the application process within 30 days after the date of application, the household will be notified on the 30th day and, if subsequently found eligible, benefits will be issued retroactively to the period of application.

**Historical Note**

R6-14-304 recodified from A.A.C. R6-3-2104 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-305. Eligibility Determination and Benefit Level**

- A.** The period of eligibility for Food Stamp Program benefits will be based on the calendar month. The household's net monthly income will be compared to the monthly eligibility standards for the appropriate household size to determine eligibility for the month.
- B.** A single application may be utilized for multiple-month certifications, based on household circumstances.

**Historical Note**

R6-14-305 recodified from A.A.C. R6-3-2105 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-306. Resources**

Only those resources (liquid and non-liquid assets) available at the time of application will be used to determine eligibility for benefits according to R6-14-217.

**Historical Note**

R6-14-306 recodified from A.A.C. R6-3-2106 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-307. Resources -- Exclusions**

- A.** In determining the resources of a household, only the following are excluded:
1. The home in which it resides and the contiguous property;
  2. Household goods and personal effects;
  3. The entire value of any licensed vehicle which is used primarily (over 50% of the time the vehicle is used) for income-producing purposes;
  4. The value of 1 licensed vehicle, other than vehicles excluded above, which is less than the fair market value of \$4,500, and the value of each additional licensed vehicle with fair market value of less than \$4,500 which is necessary for household members to seek employment or to transport household members to and from employment. For the purpose of this regulation, fair market value means gross value as determined by the Kelly Blue Book wholesale value;
  5. Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis;
  6. Property which is essential to the employment or self-employment of a household member;
  7. Governmental payments which are designated for the restoration of a home damaged in a disaster under certain conditions;
  8. Resources whose cash value is not accessible to the household;
  9. Resources of nonhousehold members, except those who have been disqualified;
  10. Resources of students or self-employed persons which have been prorated as income;
  11. Indian lands held jointly with the tribe or land that can be sold only with approval of the BIA;
  12. Resources which are excluded for program purposes by express provision of federal law;
  13. Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value.
- B.** Excluded funds which are maintained in a separate account will retain the resource exclusion for an unlimited period of time.
- C.** Excluded funds which are combined in an account with non-excluded funds will retain the exemption for the period of 6 months from the date of the combination.

**Historical Note**

R6-14-307 recodified from A.A.C. R6-3-2107 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-308. Resources -- Transfers**

Households who knowingly transfer resources for the purpose of qualifying for program benefits will be disqualified for up to 1 year from the date of discovery. The following table will be used to determine the period of disqualification:

## Department of Economic Security - Food Stamps Program

Amount in excess of the resource limit --	Period of disqualification
\$0 - 249	1 Month
250 - 999	3 Months
1,000 - 2,999	6 Months
3,000 - 4,999	9 Months
5,000 - Up	12 Months

**Historical Note**

R6-14-308 recodified from A.A.C. R6-3-2108 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-309. Income**

- A. Income eligibility will be based on income received during the certification period and income anticipated to be received during the certification period.
- B. Household income will include income from all sources, excluding those sources of income defined in R6-14-310.

**Historical Note**

R6-14-309 recodified from A.A.C. R6-3-2109 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-310. Income -- Exclusions**

- A. Income exclusions include only the following:
- Any gain or benefit which is not in the form of money payable directly to the household, including in-kind income and vendor payments. See R6-14-111, Definitions;
  - Income received during the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in 1 quarter;
  - Educational loans for which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like to the extent that they are used only for tuition and mandatory fees at an institution of higher education, including correspondence school at that level, or a school for the physically or mentally handicapped;
  - All deferred payment loans, other than educational loans;
  - Reimbursement for past or future expenses, including:
    - Reimbursement or allowance for job- or training-related expenses;
    - Out-of-pocket expenses of volunteers incurred in the course of their volunteer activities;
    - Medical or dependent care reimbursement;
    - Reimbursement or allowance to students for specific educational expenses, not including living expenses;
    - Reimbursement received by the household to pay for services provided by Title XX of the Social Security Act;
  - Monies received and used for the care and maintenance of a 3rd-party beneficiary who is not a household member;
  - The earned income of children who are members of the household, have not attained their 18th birthday, and are at least half-time students;
  - Payments received in the form of non-recurring lump-sum payments;
  - The cost of producing self-employment income;
  - Income that is specifically excluded by any law from consideration as income for the purpose of determining Food Stamp Program eligibility.
    - Reimbursement from the Uniform Relocation Assistance and Real Property Policy Act of 1970 (P.L. 91-646);
    - Payments received under the Alaska Native Claim Settlement (P.L. 92-203);

- Income derived from certain land of the United States which is held in trust for certain Indian tribes (P.L. 94-114);
- Payments from programs administered by the Community Services Administration (CSA);
- Payments received from:
  - The Youth Incentive Entitlement Pilot Project,
  - The Youth Community Conservation and Improvement Projects,
  - The youth employment and training programs under the Youth Employment and Demonstration Project Act of 1977 (P.L. 95-93)

- Payments to volunteers under Title II (RSVP, Foster Grandparents, etc.) and Title III (SCORE and ACE) of the Domestic Volunteer Service Act of 1973 (P.L. 93-113) as amended;

- Payments received under Title I (VISTA) will be excluded only for those individuals receiving Food Stamp benefits or public assistance at the time they enlisted in the VISTA program,
- Temporary interruptions in Food Stamp participation will not alter the exclusion after an initial determination has been made.

- B. For households which contain a nonhousehold member other than those disqualified, the income and resources of the non-household member will not be counted in determining eligibility and benefit levels.

- If the nonhousehold member shares deductible expenses, only that portion paid or contributed by the household will be allowed as a deduction.
- If the payments or contributions cannot be identified, the expense will be prorated evenly among persons actually paying or contributing to the expense, and only the household's prorated share deducted.
- Cash payments from the nonhousehold member to the household will be considered income under normal income standards.

**Historical Note**

R6-14-310 recodified from A.A.C. R6-3-2110 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-311. Income -- Averaging**

Households, except PA households who are subject to monthly reporting requirements, may elect to have income averaged over the certification period. Households which by contract or self-employment derive their annual income in a period of time shorter than 1 year will have their income averaged over a 12-month period, provided that income from the contract is not received on an hourly or piecework basis.

**Historical Note**

R6-14-311 recodified from A.A.C. R6-3-2111 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-312. Income -- Anticipated**

Anticipated income will be based on the income the household can be reasonably certain will be received during the certification period.

**Historical Note**

R6-14-312 recodified from A.A.C. R6-3-2112 effective  
February 13, 1996 (Supp. 96-1).

**R6-14-313. Income -- Self-employment**

Household income which is derived from self-employment will be determined as follows:

1. Annualization of self-employment income prorated over a 12-month period, even if the income is received in a shorter period of time;
2. Capital gains from the sale of capital goods or equipment will be calculated in the same manner as capital gains for federal income tax purposes. The full amount of the capital gain is counted as income for Food Stamp purposes, even if only 50% of the proceeds are taxed.

**Historical Note**

R6-14-313 recodified from A.A.C. R6-3-2113 effective February 13, 1996 (Supp. 96-1).

**R6-14-314. Deductions**

The only allowable deductions from income are:

1. Standard deduction established by the Department of Agriculture, prescribed by 7 CFR 273.9(d) and subject to semi-annual adjustment;
2. Earned income deduction as provided by 7 CFR 273.9;
3. Dependent care costs not to exceed the maximum limit as prescribed by 7 CFR 273.9;
4. Utility cost. The standard utility deduction may be considered or the household may elect to use actual verified expenses;
5. Shelter cost. Monthly shelter costs in excess of 50% of the household's net monthly income alone will be considered a deduction provided this amount, when combined with the dependent care cost, does not exceed the standard prescribed by the U.S. Department of Agriculture and prescribed by 7 CFR 273.9.

**Historical Note**

R6-14-314 recodified from A.A.C. R6-3-2114 effective February 13, 1996 (Supp. 96-1).

**R6-14-315. Net Income Determination**

Net income determination is calculated as follows: The total of 80% of the earned income, plus all of the unearned income, minus allowable deductions (R6-14-314).

**Historical Note**

R6-14-315 recodified from A.A.C. R6-3-2115 effective February 13, 1996 (Supp. 96-1).

**R6-14-316. Determination of Income and Resources after Disqualification**

As follows:

1. Resources of the disqualified household member will be counted for the remaining household members,
2. A prorated share of the income of the disqualified member will be counted for the remaining household members,
3. Deductible expenses are counted for the remaining household members,
4. That portion of the disqualified household member's shelter and dependent care costs is not deducted.

**Historical Note**

R6-14-316 recodified from A.A.C. R6-3-2116 effective February 13, 1996 (Supp. 96-1).

**R6-14-317. Averaging and Anticipating Expenses**

Expenses may be anticipated or averaged or both over the certification period utilizing the most recent bills.

**Historical Note**

R6-14-317 recodified from A.A.C. R6-3-2117 effective February 13, 1996 (Supp. 96-1).

**R6-14-318. Certification Period**

Certification periods conform to calendar months beginning with the month of application.

1. Public assistance households are assigned certification periods to coincide with the public assistance review date,
2. All other households will be assigned the longest certification period possible based on stability and predictability of household circumstances, from 1 to 12 months.

**Historical Note**

R6-14-318 recodified from A.A.C. R6-3-2118 effective February 13, 1996 (Supp. 96-1).

**R6-14-319. Identification Card**

Identification (ID) cards will be issued to each certified household as proof of program eligibility.

**Historical Note**

R6-14-319 recodified from A.A.C. R6-3-2119 effective February 13, 1996 (Supp. 96-1).

**R6-14-320. Reporting Changes**

Changes in household circumstances must be reported within ten calendar days of the change. Failure to report a change which results in an overissuance of benefits will require a claim determination in accordance with R6-14-602.

**Historical Note**

R6-14-320 recodified from A.A.C. R6-3-2120 effective February 13, 1996 (Supp. 96-1).

**R6-14-321. Reserved****R6-14-322. Notice of Adverse Action**

Prior to any action to reduce or terminate a household's program benefits within the certification period, the household will be provided advance notice, which must be mailed at least 10 days prior to the date the action becomes effective.

**Historical Note**

R6-14-322 recodified from A.A.C. R6-3-2122 effective February 13, 1996 (Supp. 96-1).

**R6-14-323. Recertification**

Currently certified households will receive notification not earlier than 15 days prior to, nor later than, the 1st day of the last month of certification to insure timely reapplication.

**Historical Note**

R6-14-323 recodified from A.A.C. R6-3-2123 effective February 13, 1996 (Supp. 96-1).

**R6-14-324. Public Assistance Households**

Households in which all members are applying for public assistance will be allowed to apply for Food Stamp benefits at the same time and with the same interviewer.

**Historical Note**

R6-14-324 recodified from A.A.C. R6-3-2124 effective February 13, 1996 (Supp. 96-1).

**R6-14-325. Destitute Households**

Destitute households are entitled to expedited services. A destitute household is 1 which meets 1 of the following criteria:

1. Households whose only source of income for the month of application was received prior to the date of application and was from a terminated source, or
2. Households whose only income for the month of application is from a new source and any income of more than \$25 which will not be received by the 10th calendar day after the date of application, or

3. Households that meet both of the aforementioned criteria.

#### Historical Note

R6-14-325 recodified from A.A.C. R6-3-2125 effective  
February 13, 1996 (Supp. 96-1).

#### R6-14-326. Expedited Service

Destitute households and households who have 0 net monthly income will be eligible for expedited service.

1. The ATP or coupons will be mailed within 2 work days, or the ATP or coupons will be available for pickup by the 3rd working day following application.
2. The ATP or coupons will be mailed or available for pickup by residents of rehabilitation centers by the 7th working day following application.

#### Historical Note

R6-14-326 recodified from A.A.C. R6-3-2126 effective  
February 13, 1996 (Supp. 96-1).

#### R6-14-327. Residents of Rehabilitation Centers

Residents of drug/alcohol rehabilitation centers may voluntarily elect to participate in the program. Residents will be certified under the same requirements and standards as other households, except the certification must be accomplished through an authorized representative.

#### Historical Note

R6-14-327 recodified from A.A.C. R6-3-2127 effective  
February 13, 1996 (Supp. 96-1).

### ARTICLE 4. FOOD STAMPS -- ISSUANCE

#### R6-14-401. Normal Issuance

- A. The certified households will be issued an Authorization to Participate (ATP).
- B. A replacement ATP will be issued following a 5-day waiting period only with the original ATP is lost, destroyed, or stolen during the period for which it was intended.

#### Historical Note

R6-14-401 recodified from A.A.C. R6-3-2201 effective  
February 13, 1996 (Supp. 96-1).

#### R6-14-402. Transfer of Benefits for Households Who Move

Continuation of certification of a household moving from the county will be provided for 60 days. The household must report to the Department prior to its departure from the county.

#### Historical Note

R6-14-402 recodified from A.A.C. R6-3-2203 effective  
February 13, 1996 (Supp. 96-1).

### ARTICLE 5. FOOD STAMPS -- HEARINGS AND APPEALS

#### R6-14-501. Fair Hearings -- General

Any household who disagrees with, or feels aggrieved by, any action or inaction which affects the participation of the household in the program has the right to a fair hearing.

1. The household will be allowed to request a hearing on any such action which has occurred in the prior 90 days. The household may request a fair hearing any time within the certification period to dispute its current level of benefits.
2. At the time of application, and at the time of any adverse action, the household must be informed in writing of its right to request a hearing, the method by which a hearing may be requested, and that its case may be presented by a household member or representative, relative, or other spokesperson. If there is an individual or organization available that provides free legal representation, the household will be so informed. A household will also be

informed of its fair hearing rights any time it expresses disagreement with any agency action.

3. An agency conference will be scheduled at the time the request for hearing is submitted by the household to provide an opportunity to resolve the dispute prior to the hearing. The agency conference is optional to the household and will not delay or replace the fair hearing process. An agency conference for households contesting a denial of expedited service shall be scheduled within 2 working days, unless the household requests that it be scheduled later or states that it does not wish to have the conference.

#### Historical Note

R6-14-501 recodified from A.A.C. R6-3-2301 effective  
February 13, 1996 (Supp. 96-1).

#### R6-14-502. Fair Hearing Request

- A. When a household requests a fair hearing within the 10 days provided by the notice of adverse action, and when its certification period has not expired, the household's benefits will be continued on the same basis authorized immediately prior to the notice of adverse action, unless the household specifically waives continuation of benefits.
  1. Benefits will be reduced or terminated if the household fails to request a hearing.
  2. When benefits are reduced or terminated due to a mass change, participation on the prior basis will be reinstated only if the issue being contested is that Food Stamp eligibility or benefits were improperly computed or that federal directives were misinterpreted or misapplied.
  3. Benefits which are continued or reinstated will not be reduced or terminated prior to the receipt of the official hearing decision unless:
    - a. The certification period expires and the household reapplies and is determined eligible for a new certification period with a benefit amount as determined for the new certification period; or
    - b. The hearing officer makes a preliminary determination, in writing and at the hearing, that the sole issue is 1 of federal law, regulation, or policy, and the household's claim that the state agency improperly computed the benefits or misinterpreted or misapplied said law, regulation, or policy is invalid; or
    - c. A change affecting the household's eligibility or level of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of adverse action;
    - d. A mass change affecting the household's eligibility or level of issuance occurs while the hearing decision is pending.
  4. A request for a hearing is any clear expression, oral or written, by a member of the household or its representative that it wishes to appeal an adverse decision. The freedom to make such a request must not be limited or interfered with in any way.
    - a. A request for a hearing will not be denied or dismissed unless the request is withdrawn in writing by the household or its representative.
    - b. Good cause. The submission of any request for a fair hearing not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to Department error or misinformation, or to delay caused by the U.S. Postal Service or its successor.

- B. Individual requests for hearing may be combined into a single group hearing when related issues of state or federal law, regulation, or policy are being addressed and individual issues of fact are not disputed.
- C. A fair hearing and an administrative fraud hearing may be combined into a single hearing when the factual issues arise out of the same or related circumstances and the household receives notice the hearings will be combined, not less than 30 days prior to the hearing.
- D. Hearing requests will be expedited for households such as migrant farm workers who plan to move from the state, and the hearing will be scheduled and a decision rendered before the anticipated move.

**Historical Note**

R6-14-502 recodified from A.A.C. R6-3-2302 effective February 13, 1996 (Supp. 96-1).

**R6-14-503. Notice of Hearing**

- A. Advance written notice of the hearing will be provided to all parties involved at least 10 days prior to the hearing to permit adequate preparation of the case. The notice will include:
  1. The time, date, and place of the hearing;
  2. The name, address, and telephone number of the person to notify in the event it is not possible for the household or its representative to attend the scheduled hearing;
  3. Information that the hearing request will be dismissed if the household or its representative fails to appear for the hearing without good cause;
  4. The hearing procedures and any other information which would provide the household or its representative with an understanding of the proceedings and contribute to the effective presentation of the household's case.
  5. An explanation that the household or its representative may examine the case file prior to the hearing.
- B. Timely action on hearings. Within 60 days of receipt of a request for a hearing, the hearing will be held, a decision rendered, and notification sent to the household and local office.
  1. The household may request and is entitled to receive a postponement of the hearing for a period of up to 30 days.
  2. The time limit for action on the decision will be extended for as many days as the hearing is postponed.

**Historical Note**

R6-14-503 recodified from A.A.C. R6-3-2303 effective February 13, 1996 (Supp. 96-1).

**R6-14-504. Fair Hearing Procedures**

- A. Hearings will be conducted by an impartial official who does not have any personal involvement in the case and who was not directly involved in the initial determination of the action which is being contested.
  1. The hearing official will be a state-level employee designated to conduct hearings and will:
    - a. Regulate and conduct the course of the hearing consistent with due process to insure an orderly hearing;
    - b. Insure all relevant issues are considered, and evidence not related to the issue is not allowed to become a part of the record;
    - c. Administer oaths or affirmations;
    - d. Request, receive, and make a part of the record all evidence determined necessary to decide the issues being raised;
    - e. Order, when relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the agency;
    - f. Render all hearing decisions.

2. The hearing officer may subpoena any witnesses or documents requested by the Department or appellant to be present at the hearing.
  - a. The request for the subpoena shall be in writing and must state the name and address of the witness and the nature of witness' testimony.
    - i. The hearing officer may deny the request if the witness' testimony is not relevant to the issues of the hearing.
    - ii. The request for the issuance of a subpoena shall be submitted a minimum of 3 working days prior to the hearing.
    - iii. A subpoena requiring the production of records and documents must specifically describe them in detail and further set forth the name and address of the custodian thereof.
  - b. The hearing office will prepare all subpoenas. Service of the subpoena will be accomplished by certified mail, return receipt requested.
3. The hearing officer may take such action for the proper disposition of an appeal as the hearing officer deems necessary and, on the hearing officer's own motion or at the request of any interested party upon a showing of good cause, may disqualify himself or herself, or may continue the hearing to a future time, or reopen a hearing before a decision is final to take additional evidence.
4. If an interested party fails to appear at a scheduled hearing without good cause, the hearing official may reschedule the hearing to a later date, or may deny or dismiss the request for hearing. If within 10 days of the scheduled hearing the appellant files a request to reopen the proceedings and establishes good cause for failure to appear at the scheduled hearing, the hearing will be rescheduled. Notice of the time, place, and purpose of any continued, reopened, or rescheduled hearing shall be given to all interested parties.

- B. Hearing rights. The household or its representative must be given adequate opportunity to examine all documents and records to be used during the course of the hearing at a reasonable time before the date of the hearing, as well as during the hearing, and:
  1. Receive a copy, without charge, of relevant portions of the case file if requested;
  2. Present the case or have it presented by legal counsel or other persons;
  3. Present witnesses;
  4. Advance arguments without undue influence;
  5. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses;
  6. Submit evidence to establish all pertinent facts and circumstances in the case.
- C. The hearing shall be attended by the household or its representative or both. Other persons may attend at the request of the household.
- D. The local office shall provide a representative to present its case at the hearing. This representative has the same rights as the claimant to examine documents, bring witnesses, advance arguments, question evidence, and submit evidence.

**Historical Note**

R6-14-504 recodified from A.A.C. R6-3-2304 effective February 13, 1996 (Supp. 96-1).

**R6-14-505. Hearing Decisions**

- A. Decisions rendered by the hearing officer will:
  1. Comply with federal law, regulations, or policy;

2. Be binding on the agency;
  3. Be based solely on the hearing record;
  4. Summarize the facts of the case;
  5. Specify the reasons for the decision;
  6. Identify the supporting evidence and pertinent regulations or policy;
  7. Become a part of the record, which will be available for public inspection and copying, subject to disclosure safe guards.
- B.** The household and the appropriate local office will be notified in writing of:
1. The decision,
  2. The availability of appeal rights,
  3. The effect of the hearing decision with respect to the household's benefit level.
- C.** When the hearing officer renders a decision which declares that a household has been improperly denied benefits or has been issued a lesser allotment than was due, lost benefits will be restored to the household. When the hearing official upholds the agency's action, a claim against the household for any overissuance shall be prepared in accordance with R6-14-604.
- D.** The household may request a Director's review of an adverse hearing decision within 10 calendar days after the decision was mailed or otherwise delivered.
1. The request for reconsideration must be in writing. It should set forth a statement of the grounds for review and may be filed personally or by mail.
  2. Upon timely filing of such a request, the local office must continue to withhold the original proposed case action until the reconsidered decision is issued.
  3. After receipt of a request, the Director will:
    - a. Remand the case for rehearing, specifying the nature of any additional evidence required or issues to be considered, or both; or
    - b. Decide the appeal on the record.
  4. The Director will promptly adopt a decision, which shall be the final decision of the Department.
  5. A copy of the decision will be distributed to each interested party.
- Historical Note**
- R6-14-505 recodified from A.A.C. R6-3-2305 effective February 13, 1996 (Supp. 96-1).
- R6-14-506. Fraud Hearings**
- A.** Fraud is any action by an individual who knowingly, willfully, and with deceitful intent:
1. Makes a false statement, either orally or in writing, to obtain benefits to which the household is not entitled;
  2. Conceals information to obtain benefits to which the household is not entitled;
  3. Alters ATP's to obtain benefits to which the household is not entitled;
  4. Uses coupons to purchase non-food items;
  5. Uses or possesses improperly obtained coupons or ATP's;
  6. Trades or sells coupons or ATP's.
- B.** An administrative fraud hearing or a referral for prosecution will be initiated when the Department has documented evidence to substantiate that a currently certified household member has committed fraud and should be disqualified.
1. The Office of Special Investigation will investigate all reports indicating potential fraudulent activity by a household member.
  2. If the household member who is suspected of fraud is not currently certified when the suspected fraud is discovered, the procedures will be initiated when the household member again becomes certified.
3. Fraud hearings shall not be conducted if the amount that is suspected to have been fraudulently obtained or the value of ineligible items purchased with Food Stamps is less than \$35.
- C.** A household suspected of fraud will be sent an "Advance Notice of Hearing" at least 30 days in advance of the scheduled hearing date. Notice will conform to the rules governing fair hearings.
- D.** Participation while awaiting a hearing. A pending fraud hearing shall not affect the individual's or the household's right to be certified and participate in the program.
- E.** The Department will conduct the administrative fraud hearing, arrive at a decision, and initiate administrative action which will make the decision effective within 90 days of the date the household member is notified in writing that the hearing has been scheduled. The household member or representative is entitled to a postponement of up to 30 days.
- F.** Fraud hearing procedures
1. The household member or representative must be advised by the hearing officer, at the start of the hearing, of the household member's right to remain silent during the hearing, but, if the household member so chooses, the hearing decision will be rendered without household participation.
  2. Fraud hearings will be conducted under the same procedures as prescribed by R6-14-504.
  3. When the household member or its representative cannot be located or fails to appear at the hearing without good cause, the hearing will be conducted without the individual being represented.
  4. Rules of procedure contained herein will be made available to any interested party.
- G.** The hearing official's recommendation on the case shall be based exclusively on the hearing record and the decision rendered by the Director of D.E.S. and is binding on the Department. The hearing decision shall take into consideration all issues questioned at the hearing and shall be based exclusively on the hearing record. Decisions of the hearing authority may not run counter to federal law, regulation, or policy. The Director may adopt the hearing officer's recommendation, reject such recommendations and reach a different conclusion based on the hearing record, or remand the matter back to the hearing officer for further evidence.
- H.** Fraud hearing decisions
1. The decision shall:
    - a. Specify the reason for the decision,
    - b. Identify the supporting evidence,
    - c. Identify the pertinent regulation, and
    - d. Respond to reasoned arguments made by the household member or representative.
  2. The hearing authority shall base the determination of fraud on clear and convincing evidence which demonstrates that the household member knowingly, willfully, and with deceitful intent committed fraud as defined in R6-14-506(A).
- I.** Fraud disqualification
1. The determination of fraud will disqualify only the individual, not the entire household.
  2. The individual found to have committed fraud will be ineligible to participate in the program for 3 months.
  3. If the hearing authority finds that the household member did commit fraud, a written notice will be mailed to the head of the household and to the disqualified member prior to disqualification. The notice will:

- a. Inform the household of the decision;
  - b. State the reason for the decision;
  - c. State the date the disqualification will commence and the duration;
  - d. Notify the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired.
4. When the hearing finds the household member did not commit fraud, a written notice must be issued to the household member within the prescribed timeliness standards.

**Historical Note**

R6-14-506 recodified from A.A.C. R6-3-2306 effective February 13, 1996 (Supp. 96-1).

**R6-14-507. Fraud Hearings -- Appeal**

- A. After a household member has been found to have committed fraud by the Director, no further administrative appeal procedure exists.
- B. The household member is entitled to seek relief in a court having appropriate jurisdiction.
  1. In addition to any other civil or criminal fraud penalties, the court will be encouraged to impose a period of disqualification for not less than 6 months and not more than 24 months as determined by the court for individuals found guilty of criminal or civil fraud.
  2. The Department shall comply with the court order to disqualify an individual only for the length of time specified in the court order.
  3. If disqualification is ordered but a date for initiating the disqualification period is not specified, the disqualification period shall be initiated with the 1st month following the date the disqualification was ordered.
  4. A court-ordered disqualification may run concurrently with the 3-month period of disqualification imposed as a result of an administrative fraud hearing. The Department shall not initiate or continue a court-imposed or administratively-imposed fraud disqualification period contrary to a court order.
- C. The Department will refer for prosecution those individuals suspected of committing fraud.

**Historical Note**

R6-14-507 recodified from A.A.C. R6-3-2307 effective February 13, 1996 (Supp. 96-1).

## ARTICLE 6. FOOD STAMPS -- CLAIMS AND RESTORATION OF LOST BENEFITS

**R6-14-601. Entitlement to Lost Benefits**

- A. When a household receives less benefits than it is entitled, and the loss was not caused by the household, the benefits will be restored, except if lost more than 12 months prior to:
  1. The month of notification by the household of the possible loss,
  2. The month of discovery by the Department of the loss, or
  3. The date a fair hearing was requested to contest the action which resulted in the loss.
- B. When a loss of benefits has occurred, and the loss was not caused by the household, action will be taken to determine entitlement and to restore any lost benefits to the household. No action by the household is necessary.
- C. Lost benefits shall be restored even when the household is currently ineligible.
- D. When a household entitled to restoration of lost benefits does not agree with the amount to be restored, or disagrees with any action taken to restore benefits, the household may request a

fair hearing within 90 days of the date the household was notified of its entitlement to lost benefits. If a household believes it is entitled to restoration of lost benefits but a review of the case file by the Department is contrary, the household has 90 days from the date of the determination to request a fair hearing.

- E. Individuals disqualified for fraud are entitled to restoration of benefits lost when the decision which resulted in the disqualification is subsequently reversed by the court.

**Historical Note**

R6-14-601 recodified from A.A.C. R6-3-2401 effective February 13, 1996 (Supp. 96-1).

**R6-14-602. Method of Restoration**

- A. When action is taken to prevent loss for future months and excluding those months for which benefits may have been lost prior to the 12-month time limitation, the amount of benefits to be restored will be calculated only for those months the household participated.
- B. When a claim against a household is unpaid or held in suspense, the amount of lost benefits to be restored will be used to offset the amount due on the claim before the balance, if any, is restored to the household.
- C. A household need not be currently eligible to receive restoration of lost benefits. Households will receive an allotment equal to the amount of benefits that were lost.
- D. When lost benefits are due a household and the household's membership has changed, benefits will be restored to the household containing a majority of the individuals who were household members at the time the loss occurred, or the household containing the individual who was head of the household at the time the loss occurred.
- E. A household who was assigned a purchase requirement that was too high, or an incorrect household size, prior to the elimination of the purchase price provision, will be entitled to restoration of lost benefits if the household received fewer bonus stamps as a result.
- F. Lost benefits will be restored to individuals when a fraud disqualification has been reversed.

**Historical Note**

R6-14-602 recodified from A.A.C. R6-3-2402 effective February 13, 1996 (Supp. 96-1).

**R6-14-603. Reserved****R6-14-604. Establishing Claims Against Households**

- A. A claim will be established against any food stamp household that has received more benefits than it is entitled to receive.
- B. If the household disagrees that an overissuance exists, with the amount of overissuance established by the claim or the schedule of repayment, a fair hearing may be requested.

**Historical Note**

R6-14-604 recodified from A.A.C. R6-3-2404 effective February 13, 1996 (Supp. 96-1).

**R6-14-605. Non-fraud Claims**

- A. Non-fraud claims will be established against a household for overissuances which were caused by Departmental error, a misunderstanding, or an inadvertent error on the part of the household.
- B. Action will be taken to establish a claim against a household which received an overissuance if less than 12 months have elapsed between the month of overissuance occurred and the month of the discovery of the overissuance.
- C. After excluding those months which are more than 12 months prior to the date the overissuance was discovered, the correct amount of benefits which should have been received will be

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determined for the months of the overissuance. When reported changes result in an overissuance, the month the overissuance initially occurred will be determined.

**Historical Note**

R6-14-605 recodified from A.A.C. R6-3-2405 effective February 13, 1996 (Supp. 96-1).

**R6-14-606. Non-fraud Claims Collection**

- A. Collection action will be initiated on all non-fraud claims unless the claim is collected through offset or the total amount of the non-fraud claim is less than the collectible amount or the household cannot be located.
- B. Collection action will be initiated providing the household with a written demand letter.
- C. If the household agrees to pay the claim, payments will be accepted and submitted to FNS in accordance with the prescribed procedures. A claim is considered uncollectible and will be terminated after it has been suspended for 3 years.

**Historical Note**

R6-14-606 recodified from A.A.C. R6-3-2406 effective February 13, 1996 (Supp. 96-1).

**R6-14-607. Fraud Claims**

- A. A fraud claim will be established when an administrative fraud hearing has found a household member guilty of fraud.
- B. The amount of a fraud claim will be calculated by determining the correct amount of Food Stamp benefits the household was entitled to receive for each month that a household member fraudulently participated, and subtracting the correct amount from the amount received by the household.
  - 1. The amount of the fraud claim will be calculated to the month the fraudulent act occurred, regardless of the length of time that elapsed until determination of fraud was made.
  - 2. If the household member is determined to have committed fraud by knowingly, willfully, and with deceitful intent failing to report a change in the household circumstances, the 1st month benefits were overissued will be the month after the month the change occurred.

**Historical Note**

R6-14-607 recodified from A.A.C. R6-3-2407 effective February 13, 1996 (Supp. 96-1).

**R6-14-608. Fraud Claims Collection**

- A. Collection action will be initiated unless the household has repaid the overissuance, the household cannot be located, or legal representative prosecuting a member of the household for fraud advises in writing that collection will prejudice the case.

- B. When a household member is found guilty of fraud by a court, the Department will request the matter of restitution be brought before the court.
- C. Collection action will be taken by sending the household a written demand letter which informs the household of:
  - 1. The amount owed,
  - 2. The reason for the claim,
  - 3. The period of time the claim covers,
  - 4. Any offsetting that was done to reduce the claim,
  - 5. How the household may pay the claim,
  - 6. The household's right to a fair hearing if the household disagrees with the determination made by the Department.
- D. If the household agrees to pay the claim after the 1st demand letter, the procedures for collecting and submitting payments as prescribed in 7 CFR 273.18 will be utilized.
- E. Demand letters will be sent as necessary. Further collection action may be suspended provided 1 of the following criteria is met:
  - 1. Household cannot be located.
  - 2. The household is financially unable to pay the claim.
  - 3. There is little likelihood that collection or enforcing collection of any significant sum from the household will result.
  - 4. The cost of further collection action is likely to exceed the amount which can be recovered.
  - 5. The claim has been held in suspense for three years.
- F. If a household's membership has changed since the overissuance occurred, collection action will be initiated against the head of the household.
- G. The Department will not deny, terminate, or reduce the benefits of a household solely because the household has refused to pay the fraud claim, nor will the Department threaten to deny, terminate, or reduce benefits.

**Historical Note**

R6-14-608 recodified from A.A.C. R6-3-2408 effective February 13, 1996 (Supp. 96-1).

**R6-14-609. Reserved****R6-14-610. Claims Collection**

Fraud or non-fraud claims will be collected in 1 lump sum if the household is financially able. When the household has insufficient liquid resources or is otherwise financially unable to pay the claim in 1 lump sum, payments will be accepted in regular installments.

**Historical Note**

R6-14-610 recodified from A.A.C. R6-3-2410 effective February 13, 1996 (Supp. 96-1).